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FORM NO. 241
1 FEB 55

REPLACES FORM 36-8
WHICH MAY BE USED.

(47)

22 December 1983

OLL: 83-3113

MEMORANDUM FOR: See Distribution

FROM:

Chief, Legislation Division, OLL

SUBJECT: Draft Fiscal Year 1985 Intelligence
Authorization Bill

1. Attached for your review and comment is a draft Fiscal Year 1985 Intelligence Authorization Bill, which will be transmitted to the Office of Management and Budget (OMB) for Administration clearance prior to its submission to Congress. Titles I through III and Title IX of the draft bill are, for the most part, routine in nature and similar to comparable provisions contained in the Fiscal Year 1984 Authorization Act. Similarly, Title IV: Modification of Certain Naturalization Requirements; Title V: Unauthorized Disclosures of Classified Information; and Title VIII: Executive Level Schedule Increases for DCI and DDCI and Avoidance of Penalty for Mandatory Retirement Prior to Age 62, are all substantive legislative initiatives which have been included in previous Authorization bills. Title VII, which provides certain needed technical amendments to the Classified Information Procedures Act, and Title VI which contains a lengthy proposal submitted by the National Security Agency providing civil remedies for unauthorized disclosures of signals intelligence information, are initiatives which are being included in the Intelligence Authorization Bill for the first time.

2. Some of these proposals obviously are controversial in nature and each of these initiatives will not necessarily be included in the Authorization Bill when it is finally transmitted to the Congress. In order to obtain timely Administration clearance from OMB for these proposals, so that we may, if we choose, pursue these proposals as separate initiatives in the next session if they are omitted from the Authorization Bill, it makes sense at this stage to provide the entire package to OMB.

3. The draft Fiscal Year 1985 Authorization Bill must be provided to OMB in early January 1984. I would appreciate receiving your comments on the attached draft bill no later than COB 30 December 1983. If you have any questions concerning the attached draft bill, do not hesitate to contact me (x.6126).

Attachments

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TITLE IV - MODIFICATION OF CERTAIN
NATURALIZATION REQUIREMENTS

Immigration and Nationality Act Amendment

SEC. 401. Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is amended by adding at the end thereof the following new subsection:

"(g) Whenever the Director of Central Intelligence determines that a petitioner otherwise eligible for naturalization has made a significant contribution to the national security or to the national intelligence mission, and the Attorney General and the Commissioner concur, the petitioner may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of Section 313 of this Act, and no residence within the jurisdiction of the court shall be required."

TITLE V - UNAUTHORIZED DISCLOSURES OF
CLASSIFIED INFORMATION

SEC. 501. (a) Chapter 37 of title 18, United States Code, is amended by adding at the beginning thereof the following new section:

"§791. Unauthorized Disclosures

(a) Whoever, being an officer or employee of the United States or a person with authorized access to classified information, willfully discloses, or attempts to disclose, any classified information to a person who is not an officer or employee of the United States and who is not authorized to receive it shall be fined not more than \$10,000, or imprisoned not more than three years, or both.

(b) As used in this section --

(i) the term "classified information" means information or material designated and clearly marked or represented, pursuant to the provisions of a statute or Executive Order, as requiring protection against unauthorized disclosure for reasons of national security;

(ii) the term "officer or employee of the United States" means civil officers and employees (as defined in sections 2104 and 2105 of title 5) and officers and enlisted members of the armed forces (as defined in section 101 of title 10); and

(iii) the term "authorized" means having authority, right, or permission pursuant to the provisions of a statute, Executive Order, directive of the head of any department or agency who is empowered to classify information, order of any United States court, or provisions of any Rule of the House of Representatives or resolution of the Senate which governs release of classified information by the respective House of Congress.

(c) Nothing in this section shall be construed to establish criminal liability for disclosure of classified information in accordance with applicable law to:

(i) any court of the United States, or judge or justice thereof; or

(ii) the Senate or House of Representatives, or any committee or subcommittee thereof, or joint committee thereof, or any Member of Congress.

(d) It shall not be an offense under subsection (a) of this section for an officer or employee of the United States in the course of official duties to communicate classified information to an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) with a reasonable belief as to his authority to do so."

(b) The table of contents of Chapter 378 of title 18, United States Code, is amended to include the following caption:

"791. Unauthorized Disclosures."

TITLE V

UNAUTHORIZED DISCLOSURES OF CLASSIFIED INFORMATION

Section 501 amends Chapter 37 of title 18, United States Code, to provide criminal penalties for willful unauthorized disclosures of classified information by federal employees and others who have authorized access to classified information, such as government contractors. With limited exceptions addressing the unauthorized disclosure of atomic energy Restricted Data or communications intelligence/cryptography information, willful unauthorized disclosures of other categories of classified information by those entrusted with it by the government is not per se an offense under existing federal criminal statutes.

TITLE VI

CIVIL ACTION FOR THE PROTECTION OF CLASSIFIED SIGNALS INTELLIGENCE INFORMATION

Section 601 is an amendment to the National Security Act of 1947, as amended, providing the United States with a civil remedy against persons responsible for the disclosure of classified signals intelligence information when the disclosure impairs the signals intelligence capability or activity of the United States.. Section 701 of this new title defines the nature of the civil wrong on the basis of which the United States may bring suit. Section 702 of the new title authorizes a civil action and defines relevant aspects of the cause of action created, including the measure of damages (which includes a civil penalty), the right of indemnity, affirmative defenses, and other relief which the United States may obtain. Section 703 authorizes the Chief Justice of the United States, in conjunction with the Attorney General and Director of Central Intelligence, to prescribe rules for the conduct of the civil action, specifies certain matters which the rules may authorize, and legislatively defines presumptions and evidentiary principles applicable to civil actions. Section 704 provides that the Act does not limit the provision of information to Congress. Section 705 establishes a four year limitations period. Section 706 states definitions relevant to application of the Act, and Section 707 provides an effective date for this new title.

Section 602 amends the Table of Contents of the National Security Act of 1947.